

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/04-01/15
Date: 15 October 2018

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Single Judge

SITUATION IN UGANDA

IN THE CASE OF *THE PROSECUTOR v. DOMINIC ONGWEN*

Public

Decision on Defence Request to Add 79 Items to its List of Evidence

To be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Fatou Bensouda
James Stewart
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Counsel for the Defence

Krispus Ayena Odongo

Legal Representatives of Victims

Joseph Akwenyu Manoba
Francisco Cox
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Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber IX ('Single Judge' and 'Chamber', respectively) of the International Criminal Court, in the case of *The Prosecutor v. Dominic Ongwen*, having regard to Article 64(2) of the Rome Statute and Regulation 23 *bis* of the Regulations of the Court, issues the following 'Decision on Defence Request to Add 79 Items to its List of Evidence'.

1. On 4 June 2018, the deadline passed for the defence for Mr Ongwen ('Defence') to add items to its list of evidence ('LoE') prior to its evidence presentation.¹
2. On 3 October 2018, the Defence requested that the Chamber grant it leave to add 79 specified items to its LoE ('Request').² These items are listed by ERN in paragraph 63 of the Request.
3. On 12 October 2018, the Office of the Prosecutor ('Prosecution') responded, indicating that it had no objection to the relief sought or to having its response reclassified as public ('Response').³
4. The Single Judge recalls the applicable framework for considering LoE additions as set out in detail previously.⁴
5. The Single Judge considers that the reasons advanced by the Defence – when coupled with Prosecution's lack of opposition – constitute sufficient justification to add these items to the Defence LoE.

¹ Email from the Chamber, 24 May 2018 at 09:58; Public Redacted Version of Decision on the Legal Representatives for Victims Requests to Present Evidence and Views and Concerns and related requests, 6 March 2018, ICC-02/04-01/15-1199-Red, para. 84; Preliminary Directions for any LRV or Defence Evidence Presentation, 13 October 2017, ICC-02/04-01/15-1021, paras 6-7.

² Defence Second Request to Add 79 Items to its List of Evidence, ICC-02/04-01/15-1358-Conf (with two annexes).

³ Prosecution's Response to Defence Second Request to Add 79 Items to its List of Evidence, ICC-02/04-01/15-1365-Conf.

⁴ Decision on Defence Request to Add 14 Items to its List of Evidence, ICC-02/04-01/15-1314, para. 7; Decision on the 'Prosecution's Request to Add Transcripts and Seven Additional Documents to its List of Evidence', 2 December 2016, ICC-02/04-01/15-619, para. 10; Decision on Prosecution Request to Add Items to its List of Evidence, to include a Witness on its List of Witnesses and to Submit Two Prior Recorded Testimonies under Rule 68(2)(b) and (c), 22 November 2016, ICC-02/04-01/15-600, para. 14.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

GRANTS the Request;

ORDERS the Defence to file an updated LoE in the case record forthwith;

ORDERS the Defence to file a public redacted version of the Request (ICC-02/04-01/15-1358-Conf) – or request its reclassification – within 10 days of notification of the present decision; and

ORDERS the Registry to reclassify the Response (ICC-02/04-01/15-1365-Conf) as ‘public’.

Done in both English and French, the English version being authoritative.


Judge Bertram Schmitt, Single Judge

Dated 15 October 2018

At The Hague, The Netherlands